

**Summary of IDEM Workgroup Meeting  
ANTIDEGRADATION/OSRW**

Monday, December 15, 2003

Tippecanoe Cooperative Extension Office

3150 Sagamore Parkway South

Lafayette, Indiana

10:00a.m. – 1:00p.m. E.S.T.

**Introduction:**

On Monday, December 15, 2003, IDEM staff met for the fourteenth time with a wide cross-section of stakeholders which make up the Antidegradation/OSRW workgroup. These notes are intended to be a summary of the major points from the meeting held at the Tippecanoe Cooperative Extension Office.

The meeting was called to order by Mary Ellen Gray.

Workgroup members in attendance for all or part of the meeting included: Art Umble; Bill Beranek; Bowden Quinn (by speakerphone); Charlotte Read (by speakerphone); Dan Olson; Kent Halloran; Neil Parke (by speakerphone); and, Ralph Roper.

Other participants included: Albert Ettinger, Environmental Law and Policy Center (ELPC) and Sierra Club; David Pfeifer, U.S.EPA, Region 5; and Zach Bishton, Indiana Association of Cities and Towns (IACT).

In addition, the following IDEM staff members were present for all or part of the meeting: Dave Kallander, Larry Wu, Lonnie Brumfield, and Megan Wallace.

**Summary:**

After introductions, the workgroup discussed the following:

- A. Mary Ellen Gray announced the news of Jane Dustin's passing and the group had a moment of silence in memory of her.
- B. The meeting minutes from the November 21, 2003 meeting were approved with no changes.
- C. Dave Kallander opened the discussion on antidegradation demonstration and determination by going over the handout that was distributed to the group outlining Indiana antidegradation demonstration and determination. A large discussion on this topic took place. Those participating in the discussion included: Charlotte Read, Albert Ettinger, Dave Kallander, Ralph Roper, Art Umble Dan Olson, Bowden Quinn, Mary Ellen Gray, Bill Beranek, Kent Halloran, Neil Parke and Lonnie Brumfield. Discussion issues included: antidegradation demonstration process; application process; type and quantity of information needed on an application; public

notice process and public participation; is the necessary determination being made by the commissioner?; language on pg. 30 of the rainbow draft that deals with “the legislative body” and uses the words “may”; what if local government does not do anything?, would the commissioner then need to deny?; alternative uses; Illinois rule on characterization of water body; quantifying human health risks from discharge of BCC’s; are human risks limited to BCCs?; definition of “cost effective”, if it can’t be defined, the term “reasonable cost” should be used; who decides what is economically cost effective?; it should be the responsibility of dischargers in their applications to determine the problems, the agency can ask for more information; do POTW’s need the same restrictions as others?; public meetings and who can request one; the existing language seems to be pushing “bigger is better” (more tax dollars, more people would mean approval while a small company or city might not get the same opportunity); social economic benefit going both directions meaning that loss of jobs, income, and tax dollars is just as important as an increase in the same.

- D. Suggestions for changes to the handout on Indiana Antidegradation Demonstration and Determination (attached at the bottom of the minutes) included:
  - 1. Combining (1.) and (4.) in box 1- Alternatives Analysis.
  - 2. Moving (3.) in box 1- Alternatives Analysis to box 4 – Public Participation.
  - 3. Box 4 – Public Participation:
    - a. Bullet 2 under number (1.) – maybe a public meeting shouldn’t be able to be requested by just anyone.
    - b. Bullet 3 under number (1.) – Change the word “quantify” to “estimate”.
- E. Specific changes made to the rainbow version of the draft language include:
  - 1. Pg. 29(d) – The requested information in subdivisions (1) and (2) will not help the agency in making an antideg decision.
  - 2. Pg. 30(f) – Change the word “quantify” to “estimate”.
  - 3. Pg. 30(g) – Remove (g)(2).
  - 4. Pg. 31 – Rethink subsection (i).
  - 5. Pg. 40 Subsection 10(a) – Cross out “An application for” in subdivision 2 and add “The submission of”.
- F. The group requested that Illinois’ and Ohio’s Antidegradation rule be distributed, as well as the current GLI rules. The group also requested that the biological information Hobart was required to provide be distributed.
- G. Mary Ellen discussed what the next steps of this rulemaking process would be. The group is going to keep working through the unresolved issues list. Topics for discussion at the next meeting include SEA 431’s \$500,000 payment option, exemptions, and BCC’s.
- H. The group also decided that all meetings for the year 2004 will be held on the 3<sup>rd</sup> Wednesday of every month in the Lafayette area. The next meeting is scheduled for January 21, 2004 from 10:00a.m. – 3:00p.m. E.S.T. The location is to be announced.

## Indiana Antidegradation Demonstration and Determination (Draft)

### Alternatives Analysis – Is the significant lowering necessary?<sup>1</sup>

1. Identify all pollutants for which the antidegradation demonstration is required
2. Identify measures available to minimize or prevent the significant lowering:
  - a) Any cost-effective pollution prevention alternatives and techniques available (minimize or eliminate the significant lowering)
    - Effluent concentrations attainable
    - Cost of each alternative and technique
    - Cost of connecting to an existing POTW or WWTP
  - b) Alternative or enhanced treatment techniques available (minimize or eliminate the significant lowering)
    - Effluent concentrations attainable
    - Cost of each alternative and enhanced treatment technique
    - Cost of connecting to an existing POTW or WWTP
3. Provide notice to all government or privately sponsored conservation projects that have specifically targeted the proposed receiving water body in the area of the new or increased discharge.
4. Identify the current and projected concentrations of BCCs for which a demonstration is required
5. For POTWs where the lowering is a result of indirect dischargers:
  - Complete the alternatives analysis for each indirect discharger
    - Identify all CSOs between point of discharge to sewer and POTW

### Economic Analysis – Does the significant lowering accommodate important social or economic development?<sup>1</sup>

- For POTWs where the lowering is a result of indirect dischargers and all non-POTWS:
1. Evaluate the baseline economic condition
    - Unemployment rate
    - Population
    - Average household income
    - Percentage living below the poverty level
  2. Identify the anticipated net positive impacts
    - Increase in employment or avoidance of layoffs
    - Reduction in local unemployment
    - Total annual payroll for the new/increased employment and average annual wage for the new employees; OR other information that quantifies the economic benefits to be provided to the area
    - Increased tax revenues
    - Increase in efficiency
    - The extent to which an environmental or public health problem is corrected
    - Industrial, commercial or residential growth in the community
    - Other social or economic benefits to the community

Antidegradation Determination – Is the significant lowering warranted based on the submitted information?

The commissioner shall make an antidegradation determination in accordance with the following:

1. The commissioner shall deny the request to lower water quality if:
  - Cost-effective measures are available
  - The action would not support important social and economic development
2. If the local government indicates that the action will benefit important social or economic development, the commissioner may allow some or all of the lowering
3. Existing and designated uses must be fully supported

A final antidegradation determination will be incorporated into the final NPDES permit and fact sheet

#### Public Participation

1. Upon receipt of an antidegradation demonstration, the commissioner shall:
  - Provide notice
  - Schedule and hold a public meeting (if requested)
  - Quantify the risks to human health from increased discharges of BCCs
2. When the commissioner proposes an antidegradation determination, it shall be:
  - Summarized in the public notice form
  - Incorporated into the draft permit and fact sheet made available for public comment

<sup>1</sup>In lieu of the information required under the alternatives and economic analyses, dischargers proposing any of the following activities will be required to submit a demonstration that the action minimizes proposed lowering of water quality and will use the most cost effective pollution prevention and treatment techniques available:

- Response action pursuant to CERCLA
- A corrective action pursuant to RCRA
- An action pursuant to similar federal or state authorities, including:
  - a) An underground storage tank corrective action under IC 13-18-7
  - b) A remediation of petroleum releases under IC 13-24-1
  - c) A voluntary remediation under IC 13-25-5

An abatement or correction of any polluted condition under IC